

### REMARKS

Reconsideration of the subject application is earnestly solicited.

Claims 183 through 209 and 223 through 249 are pending, with Claims 183, 191, 199, 223, 231, and 239 being independent. Claims 90 through 182 and 210 through 222 have been cancelled without prejudice. Claims 223 through 249 have been added. It will be appreciated that the newly added claims have been formulated upon the basis of the remaining pending claims, with "supported at the base of" having been changed to --connected to--.

### COMMENT RE CANCELLATION WITHOUT PREJUDICE OF CLAIMS

It will be appreciated that the cancelled claims had been copied from the claims of U.S. Patent Nos. 6,045,092 ("Foster '092") and 6,029,934 ("Foster '934") to provoke an interference with those patents. As Applicants understand that Statutory Disclaimers of all claims have been filed therein, Applicants have cancelled those copied claims without prejudice to expedite consideration of declaration of an interference involving the remaining claims hereof against U.S. Patent No. 6,209,823 ("Foster '823").

### REQUEST FOR RETURN OF FORM PTO-1449

Applicants respectfully request return of the Form PTO-1449 from the Third Information Disclosure Statement filed July 15, 2002, as well as the Form PTO-1449 from the Fourth Information Disclosure Statement being filed concurrently herewith.

STATEMENT UNDER 37 C.F.R. § 1.607(c)

Applicants respectfully submit that the newly-added claims, like the remaining pending claims, have been respectively copied in modified form from Claims 1 through 4 and 6 through 28 of U.S. Patent No. 6,209,823 ("Foster '823").

DISCUSSION OF INTERVIEW

Applicants wish to thank the Examiner for extending the courtesy of granting and conducting on March 25, 2003, a personal interview with Applicants' representative. At the interview, Applicants' representative and the Examiner discussed the outstanding rejection under 35 U.S.C. § 112, 2<sup>nd</sup> paragraph, which is respectfully traversed. It was tentatively agreed that the proposed amendments would obviate the grounds of rejection, and the claims have been so amended. Favorable consideration is earnestly solicited.

REQUEST FOR ENTRY OF AMENDMENT

This Amendment After Final Rejection is an earnest attempt to advance prosecution and reduce the number of issues, and is believed to clearly place this application in condition for allowance. Furthermore, Applicants respectfully submit that a full appreciation of these amendments will not require undue time or effort given the Examiner's familiarity with this application. Moreover, this Amendment was not earlier presented because Applicants earnestly believed that the prior Amendment placed the

subject application in condition for allowance. Accordingly, entry of this Amendment under 37 C.F.R. § 1.116 is respectfully requested.

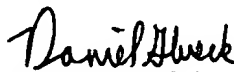
CONCLUSION

Applicants have copied the claims from Foster '823 for the purpose of provoking an interference. Support for the copied claims and the identification of a proposed count for the interference will be submitted in a separate Request for Interference which will be filed in due course. In the meantime, if the Examiner reaches this case for action prior to receipt of the Request for Interference, the Examiner is requested to telephone the undersigned before acting on the subject application.

Applicants' undersigned attorney may be reached by telephone at

(202) 530-1010. All correspondence should be directed to the address listed below.

Respectfully submitted,



Attorney for Applicants

Registration No. 37,838

Honeywell International Inc.  
Patent Services AB-2B  
101 Columbia Road  
P.O. Box 2245  
Morristown, NJ 07962  
Telephone: (310) 512-4885  
Facsimile: (310) 512-3857  
DSG



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## Amendments in a Revised Format Now Permitted

Office of Patent Legal Administration << Pre-OG Notices << << Amendments in a Revised Format Now Permitted

The United States Patent and Trademark Office (USPTO or Office) is permitting applicants to submit amendments in a revised format as set forth herein. The revised amendment format is essentially the same as the amendment format that the Office is considering adopting via a revision to 37 CFR 1.121 (Manner of Making Amendments). The revision to 37 CFR 1.121 (if adopted) will simplify amendment submission and improve file management. The Office plans to adopt such a revision to 37 CFR 1.121 by July of 2003, at which point compliance with revised 37 CFR 1.121 will be mandatory.

The revised amendment format is an expansion of the special amendment process instituted for a prototype Electronic File Wrapper program described in USPTO ANNOUNCES PROTOTYPE OF IMAGE PROCESSING, 1265 Off. Gaz. Pat. Office 87 (Dec. 17, 2002) ("Prototype Announcement"). The special amendment process (which was limited to claims) has proven overwhelmingly acceptable to applicants participating in the prototype and beneficial to examiners. The revised amendment format provides for amendments to be made to the specification and the drawings in addition to the claims.

Effective immediately, all applicants, including applicants participating in the prototype, may submit amendments using the revised amendment format set forth herein. Applicants may wish to submit all amendments in the revised amendment format because: (1) it will facilitate transition to a revised amendment format when it becomes mandatory, (2) inconsistent versions of claim amendments (clean and marked-up) will be avoided, and (3) time and resources will be saved.

### WAIVER of 37 CFR 1.121

The provisions of 37 CFR 1.121(a), (b), (c) and (d) are waived for amendments to the claims, specification, and drawings in all applications in all Technology Centers where the amendments comply with the revised amendment format detailed below. Note: The revised amendment format (and the waiver) does not apply to 37 CFR 1.121(h) and (i) which indicate that amendments to reissue applications and reexamination proceedings are governed by 37 CFR 1.173 for reissue applications and 37 CFR 1.530 (d)-(k) for *ex parte* and *inter partes* reexaminations.

In addition, the WAIVER indicated in the above mentioned Prototype Announcement for the limited (claims only) amendment process of that prototype is also expressly continued and amendments in applications (other than reissue applications) in all Technology Centers that comply with the requirements in that announcement will be acceptable.

### REVISED AMENDMENT FORMAT

#### I. Begin Sections on Separate Sheets:

Each section of an amendment paper (e.g., Amendments to the Specification, Amendments to the Claims, Remarks) shall begin on a separate sheet to facilitate separate indexing and electronic scanning of the document.

For example, each of the following four sections of an amendment paper must start on a separate sheet:

- a.) Introductory Comments
- b.) Amendments to the Specification
- c.) Amendments to the Claims
- d.) Remarks

#### II. Submit Only One Version (with markings) of an Amended Part:

The requirement to provide two versions of a replacement paragraph, section, or claim (a clean version and a marked up version), as set forth in current 37 CFR 1.121, is waived where the format set forth below is followed.

### III. Amendments to the Claims

#### A. A Complete Listing of Claims is Always Required:

If an amendment adds, changes or deletes any claim, a detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remains under examination in the application, must be presented, and the amendment to the claims is expressed in the listing. The listing shall be presented as follows:

##### 1. Ascending Order and Status Identifier Required

The listing shall be provided in sequential ascending numerical order (beginning with claim 1). A status identifier shall be provided for every claim in a parenthetical expression following the claim number (e.g., "Claim 1. (original)"). A list of acceptable status identifiers is set forth in part B, below. The text of all claims under examination shall be submitted each time any claim is amended. Cancelled and withdrawn claims should be indicated by only the claim number and status. The text of cancelled or withdrawn claims should not be presented.

##### 2. Markings in Currently Amended Claims Required

All claims *being currently amended* shall be submitted with markings to indicate the changes that have been made relative to the immediate prior version of the claims. The changes in any amended claim should be shown by strikethrough (for deleted matter) or underlining (for added matter). No separate "clean" version should be submitted for currently amended claims, as this requirement has been eliminated. Markings should only be made in claims being currently amended in an amendment paper.

##### 3. Only Clean Text Required for Other Claims Under Examination.

The text of pending claims *not being currently amended* that are under examination shall be presented in a clean version in the listing. Any claim presented in clean version constitutes an assertion that it has not been changed relative to the immediate prior version.

##### 4. Status to Effect Claim Cancellation or Addition.

A claim may be cancelled by merely indicating the status of the claim as cancelled. Any new claim added by amendment must be indicated by the appropriate status identifier and shall not be underlined. Thus, added new claims of status (new), (reinstated - formerly claim #\_) and (re-presented - formerly dependent claim #\_) must be presented in clean version. Additional claims may be subject to additional fees, as appropriate.

##### 5. When Grouping of Claims is Permitted.

Consecutive cancelled or withdrawn claims may be aggregated into one line of the listing (e.g. Claims 1 - 5 (cancelled)).

##### 6. Use "Currently Amended" Status Where Applicable.

If any "previously reinstated" or "previously re-presented" claim is being amended, the status shall be indicated as "currently amended" with markings as indicated in paragraph A2, above. Multiple status identifiers should not be used for any single claim.

#### B. Status Identifiers that May be Used:

In order to promote uniformity and consistency, only the following eleven (11) defined status identifiers should be used to indicate the status of the claims (in parentheses after the claim number):

1. (Original): Claim filed with the application following the specification (i.e., not added by preliminary amendment).

## Amendments in a Revised Form Now Permitted

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|--|---|
| 2. (Currently amended):                            | Claim being amended in the current amendment paper.   |
| 3. (Previously amended):                           | Claim not being currently amended, but which was amended in a previous amendment paper.                     |
| 4. (Cancelled):                                    | Claim cancelled or deleted from the application.  |
| 5. (Withdrawn):                                    | Claim still in the application, but in a non-elected status.  |
| 6. (Previously added):                             | Claim added in an earlier amendment paper.  |
| 7. (New):  | Claim being added in the current amendment paper.   |
| 8. (Reinstated - formerly claim # _):              | Claim deleted in an earlier amendment paper, but re-presented with a new claim number in current amendment. |
| 9. (Previously reinstated):                        | Claim deleted in an earlier amendment and reinstated in an earlier amendment paper.                         |
| 10. (Re-presented - formerly dependent claim # _): | Dependent claim re-presented in independent form in current amendment paper.                                |
| 11. (Previously re-presented):                     | Dependent claim re-presented in independent form in an earlier amendment, but not currently amended.        |

**C. Example of Listing of Claims:**

Claims 1-5 (cancelled)  
 Claim 6 (withdrawn)  
 Claim 7 (previously amended): A bucket with a handle.  
 Claim 8 (currently amended): A bucket with a ~~green~~ blue handle.  
 Claim 9 (withdrawn)  
 Claim 10 (original): A bucket with a wooden handle.  
 Claim 11 (cancelled)  
 Claim 12 (new): A bucket with plastic sides and bottom.  
 Claim 13 (previously added): A bucket having a circumferential upper lip.  
 Claim 14 (re-presented - formerly claim 11): A black bucket with a wooden handle.

**IV. Amendments to the Specification**

Amendments to the specification are to be made by presenting replacement paragraphs, sections or a substitute specification marked up to show changes made relative to the immediate prior version, as set out in 37 CFR 1.121(b). The changes should be shown by strikethrough (for deleted matter) or underlining (for added matter). No accompanying "clean" version shall be supplied. The amendments to the specification shall be presented only one time, and will not appear in successive amendment documents.

**V. Amendments to the Drawings**

Amendments to the drawing figures shall be made by presenting replacement figures which include the desired changes, without markings, and which comply with § 1.84. The changes shall be explained in the accompanying remarks section of the amendment paper. If the amended drawings are not approved, the applicant will be notified in the next Office action. Any amended drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even though only one figure may be amended. The figure number in the amended drawing should not be labeled as "amended."

## Amendments in a Revised Form Now Permitted

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For further information on the prototype image electronic processing of patent applications, please contact the Search and Information Resources Administration at: [Image.processing@uspto.gov](mailto:Image.processing@uspto.gov). Any questions regarding the submission of amendments pursuant to the revised practice set forth in this notice should be directed to Elizabeth Dougherty ([Elizabeth.Dougherty@uspto.gov](mailto:Elizabeth.Dougherty@uspto.gov)), Gena Jones ([Eugenia.Jones@uspto.gov](mailto:Eugenia.Jones@uspto.gov)) or Joe Narcavage (<mailto:Joseph.Narcavage@uspto.gov>). For information on the waiver or legal aspects of the program, please contact Jay Lucas ([Jay.Lucas@uspto.gov](mailto:Jay.Lucas@uspto.gov)) or Rob Clarke ([Robert.Clarke@uspto.gov](mailto:Robert.Clarke@uspto.gov)).

Date: 1/31/03

Signed: /s/  
STEPHEN KUNIN  
Deputy Commissioner for Patent  
Examination Policy

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